IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

MFA.No. 463 of 2002(E)

O.P(M.V).NO.2128/1995 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI DATED 17/08/2001.
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APPELLANTIN M.F.A/PETITIONER IN O.P.(M.V):

MYMOONA, W/O.MOHAMMED KOYA,
EDAKATTU HOUSE, POVANCHERI, P.O.PUTHUKODE.

BY ADV. SRI.S.V.BALAKRISHNA IYER,
SRI.P.B.KRISHNAN.

RESPONDENTS/RESPONDENTS IN O.P(M.V):
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1. **MOHAMMED SHEREEF, S/O.ALIKUTTY,**
   PANDIKKAD HOUSE, P.O.KONDOTTY.

2. **ABDUL SHUKKUR, S/O.MOHAMMEDALI HAJI,**
   FATHIMA MANZIL, P.O.PERAKAMANNA, KIZHISSERY.

3. **UNITED INDIA INSURANCE CO. LTD.,**
   MANJERI.

BY ADV. SRI.JOHN JOSEPH VETTIKAD.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 14/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

J.B. KOSHY & V. GIRI, JJ.

M.F.A.No.463 of 2002

Dated this the 14th day of August, 2007

Judgment

Koshy,J.

Appellant/Claimant met with a motor accident at the age of 25 and claimed compensation of Rs.1,01,000/- alleging that the accident occurred due to the negligence of the first respondent driver of the vehicle owned by the second respondent and insured by the third respondent insurance company. The tribunal found that the accident occurred due to the negligence of the first respondent and the vehicle was validly insured by the third respondent insurance company. However, only Rs.12,000/- was awarded as compensation and only quantum of compensation is disputed in this appeal.

2. The appellant was a coolie and the tribunal has fixed Rs.1,250/- as his monthly income and in the absence of any data we are not changing the monthly income fixed by the tribunal. As per the wound certificate as well as the discharge summary, Exts.A2 and

A3, the appellant had sustained fracture of left clavicle, fracture of pubic ramus apart from contusion on left shoulder and contusion on left chest. The tribunal did not grant any compensation on the ground that there was only pain in the left shoulder and did not consider that there was fracture. The fracture is very clearly mentioned in the discharge summary as well as in the wound certificate and, therefore, we are of the opinion that an amount of Rs.6,000/- can be granted towards compensation for permanent disability and loss of earning capacity. She was granted only one month's loss of earning. Because of the fractures, she was unable to do any work for a period of four months. So, she will be entitled to Rs.5,000/- for actual loss of earnings. Balance amount payable will be Rs.3,750/-. Tribunal has awarded only Rs.1,250/- towards medical expenses. Considering the fractures and treatment that can be required, we award Rs.2,000/- more for medical expenses. Thus, claimant will be entitled to Rs.11,750/- more over and above the decreed amount by the tribunal. The above amount of Rs.11,750/- should be deposited by the third respondent insurance company with 8% interest from the

date of application till its deposit. On deposit of the above amount, appellant is entitled to withdraw the same.

The appeal is allowed partly.

J.B.KOSHY
JUDGE

V.GIRI
JUDGE

vaa

J.B. KOSHY AND
V.GIRI,JJ.

M.F.A.NO.463/2002

Judgment

Dated:14th AUGUST, 2007